

## Comment Letter B50 Earth Justice (7/12/2013)

1. The commenter states that MTC and ABAG fail to analyze and plan for the impacts of goods movement through the area. The commenter is incorrect. The proposed Plan complies with State and federal requirements for consideration of goods movement, and the EIR analyzes potential environmental impacts associated with goods movement.

The obligation under State law to consider goods movement in an RTP, as set forth in Government Code section 65080, subdivision (a), generally requires that the RTP/SCS aim to achieve a coordinated and balanced regional transportation system that considers, among other things, goods movement. It does not promulgate any specific goods movement requirements nor does it require the RTP to include a chapter devoted to goods movement. The four required elements of an RTP under government code Section 65080 include a policy element, a sustainable communities strategy, an action element, and a financial element. Plan Bay Area includes each of these elements and lays out a coordinated and balanced transportation system, including projects related to goods movement as discussed in greater detail below.

The proposed Plan incorporates goods movement in a balanced transportation strategy by planning a system that incorporates the location of transportation and freight hubs as well as the associated movement of goods. MTC conducted a detailed study of goods movement in 2004 and updated it in 2009.<sup>1</sup> The projects contemplated in that update, including specific Trade Corridor Improvement Fund (TCIF) projects, are included as applicable in Plan Bay Area and were analyzed in the EIR. While those projects are incorporated as part of Plan Bay Area's balanced transportation strategy, MTC determined that another update to the Goods Movement Initiative was not necessary prior to the approval of Plan Bay Area. This decision was in part due to the fact that economic conditions since the previous update resulted in many projects from the prior initiative not being implemented prior to this RTP/SCS. Plan Bay Area advances the 2009 Goods Movement Initiative as part of its balanced transportation strategy by incorporating projects from that initiative directly into the Plan Bay Area. MTC determined that until goods movement projects included in the prior initiative and incorporated into the Plan Bay Area have been more fully implemented, and economic conditions have stabilized, it would be unnecessary to prepare an update to the initiative.

Under federal requirements, the RTP/SCS must consider strategies that will "increase the accessibility and mobility of people and for freight" and "enhance the integration and connectivity of the transportation system, across and between modes, for people and freight. (23 U.S.C., § 134, subd. (h)(1)(D), (F).) The RTP/SCS must also include "[o]perational and management strategies to improve the performance of existing transportation facilities to relieve vehicular congestion and maximize the safety and mobility of people and goods." (23 U.S.C., §134, subd. (i)(2)(F).)

As detailed in response to comment B50-16 below, the proposed Plan includes operational and management strategies to improve the performance of existing transportation facilities to relieve vehicular congestion and maximize the safety and mobility of people and goods.

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<sup>1</sup> The Goods Movement Initiative 2009 update is available at:

[http://www.mtc.ca.gov/planning/2035\\_plan/Supplementary/T2035\\_Goods\\_movement\\_update.pdf](http://www.mtc.ca.gov/planning/2035_plan/Supplementary/T2035_Goods_movement_update.pdf)

Finally, CEQA requires the EIR to analyze the proposed Plan's potential environmental impacts on existing conditions. CEQA does not require an analysis of policy guidance that does not result in physical changes to the environment. The EIR analysis of impacts associated with the transportation system includes potential impacts of goods movement. As described in detail in the responses that follow, the travel model incorporates the location of transportation and freight hubs and truck travel, and freight emissions are incorporated in EMFAC2011, the emissions model used for evaluating the proposed Plan. In addition, the land use model includes industrial lands, as do the land use forecasts for 2040, as detailed in the Supplemental Report *Forecast of Jobs, Population and Housing*. Therefore, goods movement is integrated in the analysis of environmental impact areas that rely on the land use, travel and emissions models. This includes, for example, traffic and circulation, air quality, noise, and GHG emissions. The commenter's flawed assumption that goods movement was not a factor in the EIR is central to the assertions in their letter and undermines each of their arguments.

2. The commenter reiterates the incorrect assertion that the EIR failed to analyze goods movement. The commenter also references its previous comment letter. See responses to comment letter B-13 for responses to the commenter's letter that was submitted during the public comment period on the Draft EIR.

This comment letter was submitted along with voluminous attachments on July 12, 2013 – nearly two months *after* the close of the public comment period on the Draft EIR, less than one week before the meeting at which MTC and ABAG are scheduled to take action on the project, and after the Final EIR was already released to the public and decisionmakers. This follows two years of extensive public outreach on the project, during which neither Earth Justice nor Communities for a Better Environment (CBE) were active participants in the development of the Plan. At no time prior to July 12, 2013 did either organization object to the Plan's treatment of goods movement. Their comment letter (B-13) submitted on May 16, 2013, during the public comment period, makes no mention of the issue.

As the California Supreme Court stated: "We cannot, of course, overemphasize our disapproval of the tactic of withholding objections, which could have been raised earlier in the environmental review process, solely for the purpose of obstruction and delay. As one federal court has aptly stated: '[T]he ... requirement of studying alternatives may not be turned into a game to be played by persons who -- for whatever reasons and with whatever depth of conviction -- are chiefly interested in scuttling a particular project.'" (*Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553, 568, quoting *Seacoast Anti-Pollution v. Nuclear Regulatory Com'n* (1st Cir. 1979) 598 F.2d 1221, 1230-1231.)

MTC and ABAG are under no obligation to provide responses to this comment letter. "The lead agency shall respond to comments received during the noticed comment period and any extensions and *may* respond to late comments." (CEQA Guidelines Section 15088(c), emphasis added.) Nonetheless, MTC and ABAG provide responses to the belated comments, which is consistent with MTC's and ABAG's commitment to open public discourse.

3. The commenter summarizes the comments included in the remainder of the letter. See detailed responses to comments below.

4. The comment discusses existing conditions that are incorporated in the EIR's baseline and analysis of impacts. The comment does not raise an environmental issue associated with the proposed Plan's impacts.
5. The commenter is incorrect in stating that the EIR does not include a description of freight movement. In response to a timely comment (A34-3) on the EIR from Caltrans, the Final EIR states:

"MTC recognizes the importance of freight transportation on the region's highways and railroads, as well as at regional airports and seaports. A description of the San Francisco Bay Area highway system, used by the region's freight trucks, is on pages 2.1-1 and 2.1-2. A description of the freight rail, seaport, and airport facilities can be found on page 2.1-9. The proposed Plan's overall emphasis on passenger vehicles is primarily the result of California Senate Bill 375 (SB 375). SB 375 specifically required MTC and ABAG to achieve greenhouse gas reduction targets for cars and light-duty trucks as part of the RTP/SCS planning process. The target, as established by the California Air Resources Board, did not include GHG reductions from typical freight vehicles, such as heavy-duty trucks or freight railroads. Therefore, transportation and land use strategies were developed to maximize greenhouse gas emission reductions from passenger vehicle sources. See Master Response D.1 for additional information on GHG reductions under SB 375."

In response to Caltrans comments on Plan Bay Area, MTC and ABAG revised Plan Bay Area to describe ongoing planning efforts to address goods movement (page 20 of the Revisions to the Draft Plan; page 123 of the Plan).

Responses to comment C36 also address goods movement. C36-3 explains that goods movement was incorporated in the EIR's environmental analysis: "The analysis of the Plan includes a 2040 forecast for housing, jobs and population, which accounts for anticipated locations of jobs, including industrial and manufacturing, in 2040. The emissions associated with the anticipated locations of those uses are included in the analysis completed for the Draft EIR."

See also response to comment C172-5.

The comments referenced above undermine the commenter's assertion that the public was deprived of an opportunity to comment on the goods movement issue. Commenters who submitted comments during the comment period addressed the exact same issues.

Commenter makes a general reference to a policy recommendation that ABAG staff submitted to the ABAG Executive Board on June 20, 2013. Commenter describes this as a late inclusion of a goods movement strategy in the Plan. Commenter is incorrect. Staff's policy recommendation describes ongoing planning efforts in coordination with key goods movement stakeholders, including Caltrans, local congestion management agencies, and the Bay Area Air Quality Management District, to continue to study goods movement issues affecting the Bay Area. The proposed revisions also include analysis of sub-regional areas, which goes beyond the what is required by Government Code Section 65080. No change in the currently proposed land use plan or transportation strategy was made. The EIR analyzes the impact of goods movement that would result from implementation of the currently proposed Plan, including projects from the 2009 Goods Movement Initiatives study.

The fact that MTC and ABAG are contemplating different strategies in the future does not undermine the analysis of goods movement in the EIR.

The EIR analysis includes evaluation of goods movement in the land use, travel and emissions models. As part of the EIR analysis, ABAG projects land uses related to goods movement. First, macroeconomic techniques are used to predict the total number of jobs in future years for a variety of sectors including retail, manufacturing, logistics, and warehousing. The UrbanSim land use model then applies conversion factors to calculate the amount of square feet used by these employees in different types of buildings such as industrial structures, warehouses, and various types of retail space. UrbanSim's Employee Location Choice Model then locates new buildings in particular locations based on the factors that have typically influenced that particular sector's siting decisions. This process may also eliminate existing buildings if the model's market representation shows that other uses will pay more for the location. The net outcome is a future-year spatial distributions of buildings (and their associated employees) used for production, distribution, and consumption of goods. These building's employees are explicitly located within the travel network, allowing for the analysis of goods movement flows.

MTC's Travel Model One represents four types of commercial vehicles, as follows: very small trucks, which are two-axle, four tire vehicles (e.g. taxis, pizza delivery); small trucks, which are two-axle, six-tire vehicles; medium trucks, which are three-axle vehicles; and, large or combination (four-or-more axle) trucks. The movements of these vehicles are estimated via the following five-step modeling process:

- a. Trip generation. Commercial (or "truck") travel is generated by and attracted to employment locations. Separate trip-rates are applied for the different vehicle classes and the production rates are specific to garage-dispatched and non-garage-dispatched travel. The result of the generation step is an estimate of spatially-explicit, disconnected trip ends (i.e., X trips leave location A, Y trips arrive at location B).
- b. Trip distribution. The distribution step connects these trip ends via a typical (to travel models) gravity model, using blended travel time -- a weighted average of peak and off-peak travel time -- as an impedance measure. The result of the distribution step is an estimate of spatially-explicit, connected trips (i.e., X trips move from location A to location B).
- c. Time-of-day. The time-of-day step segments the connected trips using static (i.e., they remain constant in forecast years) diurnal factors into five time periods, specifically: 3 to 6 am; 6 to 10 am; 10 am to 3 pm; 3 to 7 pm; and 7 pm to 3 am. The result of the time-of-day step are spatially- and temporally-explicit matrices of connected trips (i.e., Z trips move from location A to location B during the morning commute period).
- d. Express lane choice. The regional express lane network is expected to accommodate certain classes of commercial vehicles. In this step, eligible commercial vehicles are presented the choice of traveling in the main flow or express lanes (this option is only considered if the express lanes are relevant to the movement in question).
- e. Assignment. Following the express lane choice, commercial vehicles are combined with estimates of passenger vehicle travel and "assigned" to the roadway network. The assignment process determines the optimal route, as influenced by congestion, for each commercial vehicle movement.

The above steps result in spatially- and temporally-specific estimates of four types of commercial vehicles. When doing regional air quality analyses, this information is passed to the California Air Resources Board's emission estimation software (EMFAC). EMFAC applies its own share of vehicle-miles traveled (VMT) by vehicle category estimates to MTC speed-specific estimates of total (commercial plus non-commercial) VMT, when running the model in default mode for this input variable. For example, EMFAC assumes that X percent of VMT in County Y belongs to vehicle class Z in 2020. As such, MTC's travel model only provides information on the quantity of vehicle-miles traveled (across commercial and non-commercial vehicle classes) and the speed at which these vehicles travel to the calculation of regional vehicle emissions.

The Air Quality chapter of the Draft EIR, Chapter 2.2, includes a detailed discussion of toxic air contaminants (TACs) on pages 2.2-9 through 2.2-11. In describing the methods of analysis for Chapter 2.2 of the Draft EIR, pages 2.2-17 through 2.2-26, the Draft EIR includes a description of the major emissions sources of local pollutants evaluated in the Draft EIR, including highways, high traffic roadways, railroads, ferry terminals, large mobile sources and stationary sources. Impact area 2.2-5(b) focuses specifically on if implementation of the proposed Plan could cause a localized net increase in sensitive receptors located in Transit Priority Project corridors within set distances to mobile or stationary sources of TAC or PM<sub>2.5</sub> emissions. This criteria includes discussion of community health impacts related to exposure to TAC and PM<sub>2.5</sub> emissions and relies on the 2005 California Air Resources Board *Air Quality and Land Use Handbook: A Community Health Perspective* and the BAAQMD's permit data to identify appropriate distances that sensitive receptors should be protected from stationary and mobile sources, as detailed in Table 2.2-10 of the Draft EIR and described in more detail in Appendix E to the Draft EIR. See also response to comment B25-8.

6. See response to comment 5, above. Contrary to the commenter's repeated assertion, the EIR incorporates goods movement in its analysis of impacts.
7. The commenter points to other, timely comment letters that raise goods movement issues, completely contrary to the commenter's previous assertion that the public did not have an opportunity to comment on this issue. See responses to comments B10, A11, C36, and A34.
8. See responses to comment letter A34.
9. Commenter's assertion that the EIR does not analyze goods movement is incorrect. See response to comment 5, above.
10. Commenter's assertion that ABAG staff's June 20, 2013 recommendations amount to a new goods movement strategy is incorrect. The proposed revisions to the Plan describe concurrent ongoing efforts by MTC, in collaboration with Caltrans and local congestion management agencies (CMAs), to study issues associated with goods movement. The proposed revisions point out how MTC's efforts will help inform State and Federal initiatives to improve the national freight network and continue to build upon the region's past work on goods movement. The proposed revisions do not result in any changes to the land use pattern or transportation network in Plan Bay Area, do not change the potential physical impacts of implementing the Plan, and do not affect any of the conclusions in the EIR. Plan Bay Area incorporates projects from the 2009 Goods Movement Initiatives study and analysis of the impacts of those projects are incorporated in the EIR.

11. Commenter acknowledges that the EIR addresses goods movement. The comment argues that goods movement should be a bigger focus of the Plan and the EIR. Furthermore, as noted in comment 5, above, the Plan is guided by SB 375's requirement that the Plan reduce GHG emissions from light cars and trucks. The commenter claims that the Transit Investment Strategy, which is actually the *Transportation* Investment Strategy, states that it "acknowledges the importance of goods movement" but that the proposed Plan only includes one goods movement related project. This statement is false. The proposed Plan includes numerous projects that provide benefits to goods movement, including project such as grade separations, investments at the Oakland Army Base, dredging in Contra Costa County serving the Port of Stockton, highway improvements such as truck lanes and projects that improve freeway operations, relocation of truck scales, and major reconstruction of streets to serve heavy truck traffic. These projects are all listed in the online project database provided concurrent with the Draft Plan and Draft EIR ([www.bayarea2040.com](http://www.bayarea2040.com)) that lists every project in the proposed Plan, and in Appendix C of the Draft EIR, which also lists every project in the proposed Plan. These projects are analyzed at the regional, programmatic level and factored into the EIR's impact analyses. See Master Response A.3 regarding the level of specificity in the EIR and Master Response D.1 regarding SB 375's GHG reduction requirements.

Goods movement planning involves multiple other agencies, all of which have various areas of responsibility, including Caltrans, CARB, and the local air district, in addition to the region's ports and airports and county congestion management agencies. MAP-21, recent federal transportation legislation including goods movement, encourages each state to develop a comprehensive State Freight Plan and establish a State Freight Advisory Committee. In California, this work is led by Caltrans, with MTC as an active participant on the State Freight Advisory Committee. CARB is the primary agency responsible for overseeing and regulating emissions from the goods movement sector, and does so through both rulemaking and grant programs. Within the region, the BAAQMD plays an active role supporting and funding programs that focus on reducing emissions from goods movement throughout the region and also conducts air quality analysis in communities impacted by goods movement activity. The ports and airports, as public agencies with unique mandates, have a significant amount of autonomy in managing facility operations and business development. The ports have unique relationships with their private sector partners, including the railroads, shippers, truckers, and airlines. In addition to these other agencies, which have active roles in goods movement, the private sector plays a critical role as the owner and operator of a significant portion of the goods movement network.

MTC's primary focus since the 2009 Update to the Regional Goods Movement Initiatives has been on implementation of goods movement projects that the region submitted for funding through the State Proposition 1B Trade Corridors Improvement Fund (TCIF). This program of projects support freight movements in Northern California, focused on improving the efficiency of goods movement within and connected to the region and reducing impacts on local communities. As discussed in response 1, above, the TCIF projects are in various stages of implementation and are included in Plan Bay Area.

12. The commenter repeats the incorrect assertion that the EIR failed to include goods movement in the project description. See responses to comments 1-11, above. The commenter again mischaracterizes ABAG staff's recommendation as "a goods movement piece to the Plan itself." The goods movement language added to the proposed Plan does not change the scope of the proposed Plan, it

simply details future work program for the agency staff. As part of long-range planning, it is reasonable for agencies to conduct ongoing planning work and to identify future areas of focus coming out of long-range plans. It does not change the physical impacts of the Plan. Furthermore, ABAG's recommendation that the Plan include a sub-regional study of goods movement in a particular area is not a region-wide component of the plan, is not required by SB 375 or Government Code Section 65080, and would not result in any physical impacts that would need to be analyzed in the EIR. See master response A.3 regarding the level of specificity in the EIR.

13. It does not constitute deferral of consideration or improper segmentation if MTC and ABAG decide to incorporate ongoing planning efforts or a sub-regional study of goods movement into the Plan. The EIR includes a description of existing goods movement in the Bay Area and incorporates changes in the land use pattern, transportation network, and emissions that would result from implementation of the Plan – including changes in goods movement. The EIR mitigates the impacts of the proposed Plan to the extent feasible, as required by CEQA. The sub-regional studies contemplated by ABAG are not changes in the Plan that would result in different physical impacts nor are the required components of an RTP/SCS. (Gov. Code § 65080.)
14. The EIR has not improperly segmented the analysis of goods movement. See response to comment 13 and Master Response A.3.
15. The commenter incorrectly asserts that an unspecified “goods movement implementation measure” changes the “scope *and* nature of the Plan *and* its environmental effects.” The commenter cites no specific policy change related to goods movement that could potentially result in changed physical impacts of the Project. In fact, there has been no change in the proposed Plan that would result in changed physical impacts related to goods movement, and therefore no need to conduct further environmental analysis. The scope and nature of the Plan remain the same as originally proposed and the environmental impacts of the proposed Plan – including changes in goods movement at the regional level that may result from implementation of the proposed Plan – are fully evaluated in the EIR. The commenter speculates that the Plan's impacts could be different or more severe depending on the goods movement strategies that are employed. The commenter's assertion is speculative.
16. The comment references federal requirements for the Regional Transportation Plans (RTP). It does not raise any environmental issues to which a response is required under CEQA. The revisions to Draft Plan highlight MTC's ongoing research and planning to address goods movement issues. See response to comment 5 regarding the focus of Plan Bay Area. The proposed Plan includes continuation of MTC's ongoing efforts related to operational and management strategies to improve the performance of existing transportation facilities to relieve vehicular congestion and maximize the safety and mobility of people and goods. The proposed Plan furthers implementation of the projects submitted by MTC for the Trade Corridors Improvement Fund (TCIF), which was a focus of the 2009 Update to the Regional Goods Movement Initiatives report, and also includes many projects developed at the local or county level that benefit freight. In addition, ongoing efforts including the Freeway Performance Initiative, work on arterial operations, and Corridor System Management Plans, including MTC, Caltrans, county congestion management agencies and local jurisdictions focus on both operational and capital projects that improve the operational efficiency of the transportation network, benefiting both people and goods.

17. The comment incorrectly refers to proposed revisions to the Plan as last-minute, cursory considerations of goods movement. The proposed revisions to the Plan describe concurrent ongoing efforts by MTC, in collaboration with Caltrans and local congestion management agencies (CMAs), to study issues associated with goods movement. The proposed revisions point out how MTC's efforts will help inform State and Federal initiatives to improve the national freight network. The proposed revisions do not result in any changes to the land use pattern or transportation network in Plan Bay Area, do not change the potential physical impacts of implementing the Plan, and do not affect any of the conclusions in the EIR.
18. The fact that other RTPs have included sections devoted to goods movement has no relevance to the environmental review of the proposed Plan. The comment does not raise any environmental issues to which a response is required under CEQA. *Transportation 2035* included two pages on goods movement strategy highlighting key programs and studies MTC had recently completed at the time of *Transportation 2035*, as well as an update to the previous Regional Goods Movement Study. Immediately prior to the adoption of *Transportation 2035*, MTC had recently led a very successful effort to secure state Proposition 1B bond funds for goods movement projects in the region. Those projects are currently in various phases of implementation, and MTC has continued to monitor those projects and submit additional projects to the program as funds become available. However, as comments 1 and 5 discuss, the focus of Plan Bay Area is on SB 375's mandates to integrate transportation and land use to achieve greenhouse gas reductions from passenger cars and light duty trucks. MTC continues to be involved in advancing goods movement projects in the region, and goods movement is incorporated into the proposed Plan's balanced transportation strategy; however, it was not a primary focus of the Draft Plan document, which included extensive discussion of the relationship between transportation and land use as well as program focused on reducing GHG emissions, consistent with AB 32, SB 375, and CARB's Scoping Plan.
19. The commenter asserts that "[i]f MTC and ABAG maintain that goods movement is not part of the project, then the EIR fails to engage in a cumulative impact analysis that considers how goods movement concerns might interact with all aspects of the plan." The commenter's entire cumulative impacts argument is premised on the incorrect assumption that the EIR does not evaluate goods movement. As discussed throughout these responses, the EIR analyzes changes in the regional land use pattern that may result if the Plan is implemented. The EIR's impact analyses incorporate changes in goods movement, thus the remainder of the commenter's cumulative impact argument is irrelevant.
20. The EIR adequately addresses goods movement. See response to comment 5.
21. Again, the premise of the comment is that the EIR does not analyze the impacts of goods movement. The commenter is incorrect. See response to comment 5.
22. The commenter asserts that the EIR fails to provide a "list of past, present, and probable projects" or a summary of projections from adopted planning documents. The online project database, list of projects in Draft EIR Appendix C, and the maps of projects in the body of the Draft EIR project description cover the range of projects advanced under Plan Bay Area. These projects are analyzed in the context of local planning assumptions. As required by SB 375, the land use pattern in the proposed Plan is based on the most recent land use planning assumptions considering local General Plans and other factors. (Gov. Code Section 65080(b)(2)(B).) As described in the Draft EIR the



proposed Plan is a comprehensive, integrated land use and transportation Plan for the entire nine-county Bay Area region for people and for freight. Therefore, the proposed Plan is a regional cumulative scenario and as a result each of the impacts analyzed in the EIR are cumulative impacts.

23. The commenter generally asserts that the EIR fails to provide information on unspecified other projects that contribute to cumulative impacts in the region. The commenter again ignores the fact that the EIR is a programmatic analysis of a long-term regional plan. The entire analysis is cumulative in nature. The commenter points to no specific project that was omitted from inclusion in the EIR. See Master Response A.3 regarding the level of specificity in the EIR.
24. See responses to comments 19 through 23.
25. See responses to comments 19 through 23.
26. See responses to comments 1 through 25.